

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



IN RE PEANUT FARMERS ANTITRUST  
LITIGATION

Case No. 2:19-cv-00463

Honorable Raymond A. Jackson  
Honorable Lawrence R. Leonard

**ORDER APPROVING CLASS COUNSEL'S MOTION FOR AWARD FROM THE  
OLAM AND BIRDSONG SETTLEMENT FUND FOR CURRENT AND ONGOING  
LITIGATION EXPENSES**

**THIS CAUSE** came before the Court on Class Counsel's Motion for Award from the Olam and Birdsong Settlement Fund for Current and Ongoing Litigation Expenses ("Motion"). The Court, having reviewed all the pleadings relating to the Motion, the exhibits thereto, including Class Counsel's Amended Declaration in Support, and having held a hearing on the matter, hereby:

**ORDERS AND ADJUDGES:**

1. The Court has approved Plaintiffs' settlement with Defendant Olam Peanut Shelling Company, Inc. in the amount of \$7,750,000 and Plaintiffs' settlement with Defendant Birdsong Corporation in the amount of \$50,000,000. The total amount of the settlements is \$57,750,000, which has been placed in an interest-bearing escrow account ("Settlement Fund").

2. Class Counsel's Motion, as amended by Class Counsel's Amended Declaration in Support, seeks an award of \$1,867,926.84 from the Settlement Fund for litigation expenses incurred in this case.

3. Substantial authority supports the use of funds obtained in partial settlements for reimbursement or payment to Class Counsel of expenses incurred in this case. *See In re The Mills Corp. Securities Litig.*, 265 F.R.D. 246, 265 (E.D. Va. 2009) (permitting over \$3 million of a partial settlement fund to be used for expenses paid and outstanding costs); *South Carolina*

*National Bank v. Stone, et al.*, 749 F. Supp. 1419, 1434-35 (D.S.C. 1990) (permitting a \$200,000 litigation expense fund for past and future costs and expenses from \$3,000,000 ice-breaker settlement); *see also, e.g., Newby v. Enron Corp.*, 394 F.3d 296, 302-303 (5th Cir. 2004) (affirming an order providing for a \$15 million litigation expense fund from the proceeds of a partial settlement); *In re Packaged Ice Antitrust Litig.*, No. 08-MD-01952, 2011 WL 717519, at \*13 (E.D. Mich. Feb. 22, 2011) (permitting \$750,000 of a partial settlement to be used for litigation expenses); *In re Microcrystalline Cellulose Antitrust Litig.*, No. 01-111, Final Judgment Order at ¶ 7 (E.D. Pa. June 15, 2005) (O'Neill, J.) (permitting class plaintiffs to use up to \$2.5 million of a settlement fund to pay litigation expenses).

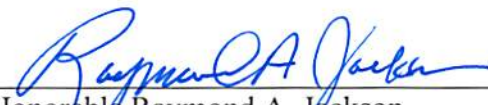
4. Class Counsel have paid \$793,349.32 for costs and expenses relating to discovery, experts, and trial preparation, and have incurred additional as-yet-unpaid costs of \$1,074,577.52 relating to those same categories.

5. The expenses paid and incurred by Class Counsel were reasonable and necessary to the successful prosecution of this Action, which has thus far resulted in the creation of the Settlement Fund.

6. Class Counsel's request for an award of \$1,867,926.84 for litigation expenses paid and incurred in this case is hereby granted.

**IT IS SO ORDERED.**

Dated: April 7, 2021

  
Honorable Raymond A. Jackson  
U.S. District Judge